

REMARKS

Claims 1-3, 5-23 and 25-28 are pending in this application.

The Rejection under 35 U.S.C. §112

Claims 1-3, 5-23, and 25-28 are rejected under 35 U.S.C. §112, first paragraph. The Office Action states that the claims contain subject matter not described in the specification. In particular, the recitation combining a source of an inorganic oxide with an organic complexing and pore forming agent in the absence of water” is allegedly not fully supported in the specification insofar as the specification does not state *in haec verbum* “in the absence of water.”

The specification is amended herein to explicitly state that the source of the inorganic oxide is reacted with a complexing agent at a complexing temperature “in the absence of water.” It is respectfully submitted that no new matter is being added.

The test for whether a disclosure complies with the written description requirement is whether it would have reasonably conveyed to one skilled in the art that the inventor invented the later-claimed subject matter, rather than the presence or absence of literal support in the specification for the claim language. In re Kaslow, 217 USPO 1089, 1096 (Fed. Cir. 1983); In re Edwards, 196 USPQ 465 (CCPA 1978); In re Herschler, 200 USPQ 711 (CCPA 1979). An *ipsis verbis* description of the invention is not necessary. Martin v. Johnson, 172 USPQ 391, 395 (CCPA 1972).

In the present instance the fact that the source of inorganic oxide is reacted with the complexing agent in the absence of water is inherently disclosed. One skilled in the art would realize that this complexation first step could not be achieved except in the absence of water.

The alkanolamine functions as both a complexing agent to solubilize the inorganic oxide and also as a pore-forming agent. After complexation, the complex is decomposed by hydrolysis by adding water. See Applicants' specification page 7, lines 14-16, and page 9, lines 6-9. Necessarily, water cannot be present in the complexation step as this would prevent formation of the complex. Under the complexation reaction conditions, i.e. temperature above 150°C, water that may be generated in the reaction is removed. See specification page 12, lines 21-22.

It is clear that the absence of water in the initial complexation step is an inherent requirement of the claimed process and, therefore, is an inherent part of the original disclosure, as one skilled in the art would realize. Accordingly, entry of the modification herein of the specification and reconsideration and withdrawal of the rejection under 35 U.S.C. §112, first paragraph are respectfully requested.

The Rejections under Prior Art

Claims 1-3, 5-11, and 14-23 are rejected under 35 U.S.C. §103(a) as being obvious over Cao et al. U.S. Patent No. 6,660,682 in view of Pinnavaia et al. U.S. Patent No. 6,410,473.

Cao et al is directed to a method of synthesizing molecular sieves and discloses forming a reaction mixture including at least one templating agent and at least two of a silicon source, a phosphorous source and an aluminum source, and introducing a non-ionic polymeric base into the mixture, then recovering the molecular sieve. The Cao et al. method is a hydrothermal process and necessarily includes water in the reaction. The hydrothermal process is conducted at about 80° C to 250°C in a sealed vessel under autogenous pressure to maintain the presence of

water in the reaction. See Cao et al., col. 10, lines 4-13. Nowhere does Cao et al. state that water is absent from the reaction.

The absence of water in the complexation first step of Applicants' method is an important feature of the present invention. Hydrolysis is avoided in this initial step. The object of the initial complexation step is to enable the use of inorganic oxides rather than the more expensive organic sources such as TEOS or aluminum isopropoxide to form the mesoporous material. To accomplish this, the inorganic oxide source is reacted with the complexing and pore forming agent (e.g. alkanolamine) to provide a soluble complex. Water would interfere with the complex formation by prematurely hydrolyzing the complex.

The Pinnavaia et al. reference does not cure the deficiencies of Cao et al. Pinnavaia et al. also requires the presence of water. See e.g. Pinnavaia et al. col. 7, lines 107.

2. Claims 12, 13 and 25-28 are rejected under 35 U.S.C. §103(a) as being obvious over Cao et al. in view of Pinnavaia et al. and further in view of Ozin et al. U.S. Patent No.5,320,822.

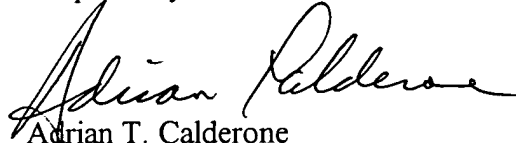
The remarks above with respect to Cao et al. and Pinnavaia et al. are reiterated herein. Ozin et al. also requires the presence of water and does not cure the deficiencies of Cao et al. and Pinnavaia et al.

Accordingly, none of the cited references, whether taken individually or in combination, disclose or suggest the present invention. Reconsideration and withdrawal of such of the rejections are respectfully requested.

CONCLUSION

For at least the reasons stated above all of the pending claims are submitted to be in condition for allowance, the same being respectfully requested.

Respectfully submitted

A handwritten signature in black ink, appearing to read "Adrian T. Calderone". The signature is fluid and cursive, with the first name "Adrian" being more prominent than the last name "Calderone".

Adrian T. Calderone

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